

2. RESPONSIBILITY SECTION

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2.0.1 Standards Of Conduct

Purpose

The purpose of this section is to inform collection personnel that certain activities are incompatible with their collection responsibilities and may lead to termination of employment or other severe, adverse action.

It is the responsibility of Franchise Tax Board (FTB) staff to conduct themselves in a responsible and professional manner.

Employees should do the following:

- Only request or access information on a "**need to know**" basis.
- Not become involved with any collection account in which they have a personal or financial interest.
- Not show or discuss confidential information to/with anyone, who does not have the "**need to know**".

Requesting or accessing information for curiosity or other personal reasons is prohibited. "Need to know" means you will only obtain the taxpayer information you need to "execute your official responsibilities".

It is a misdemeanor for an employee of the FTB to make any willful unauthorized inspection or unwarranted disclosure or use of state information ([Revenue and Taxation Code Sections 19542, 19542.1, and 19552](#)).

FTB is required to notify the owner of the information that may have been breached.

FTB employees may be subject to civil action by the owners of the information.

Reference

[FTB Disclosure Manual](#)
[Revenue and Taxation Code Sections 19542, 19542.1, and 19552](#)
[Civil Codes Sections 1798.29, 1798.82 and 1798.84](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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2.0.2 Personal Responsibility And Liability Of Collection Staff

Purpose

The purpose of maintaining Personal Responsibility and Liability of collection staff are to ensure that collection staff perform their duties within the scope of their administrative rights when applying the Revenue and Taxation Codes for the collection of delinquent debts.

Responsibility

It is the responsibility of the collection staff, in resolving collection accounts, to ensure that:

- Actions are taken in a fair and impartial manner;
- Sound technical conclusions are made; and
- The revenue base of the State of California is protected through use of available legal actions (i.e., issuance of an Order to Withhold Tax, Earnings Withholding Order for Taxes, liens, warrants, etc.).

In addition to collecting taxes, FTB staff are responsible for informing debtors of their rights (i.e., Taxpayers' Bill of Rights) and assuring that their rights are protected.

[Government Code Section 995](#) provides that a public entity will undertake the defense of any civil action brought against public employees in their individual or official capacity for acts done in the scope of employment.

Furthermore, [Section 860.2 of the Government Code](#) states, "Neither a public entity nor a public employee is liable for an injury caused by:

- (a) Instituting any judicial or administrative proceeding or action for or incidental to the assessment or collection of a tax.
- (b) An act or omission in the interpretation or application of any law relating to a tax."

[Government Code Section 825](#) provides that if public employees make a written request to their employer for defense not less than 10 days before trial, the public entity must pay any judgment or any compromise of the action.

Reference

[Government Code 19990](#)

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[California Taxpayers' Bill of Rights](#)

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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2.0.3 Acceptance Of Service

Background

The department is regularly served with a wide variety of legal documents that require action within a prescribed timeframe. Service of documents includes subpoenas, summonses and complaints.

Purpose

To ensure procedures set forth in the department ((***) are followed and to prevent the department's legal position from being prejudiced by delay.

Action

Anyone making an inquiry regarding service of legal process should be advised of the following:

Subpoenas should be served on the department by personal service at 9646 Butterfield Way, Sacramento, CA 95827. As a general rule, service by mail is not valid service. When records are being sought, the subpoena should be addressed to "Custodian of Records".

Summonses and complaints may be served either (1) in person or (2) by mail in accordance with the Code of Civil Procedure Section 415.30. Personal service should be made at 9646 Butterfield Way, Sacramento, CA 95827.

Service by mail is preferred and should be directed to: Chief Counsel, Franchise Tax Board, PO Box 2229, Sacramento, CA 95812-2229. In accordance with the provisions of the Code of Civil Procedure Section 415.30, two copies of the Notice and Acknowledgment of Receipt and a return envelope, postage prepaid, addressed to the sender should be included.

NOTE: Service does not take place until such time as the Notice and Acknowledgement of Receipt is signed and returned.

The department will not accept service with respect to its employee's personal matters.

Reference

For specific information regarding the department's procedures pertaining to acceptance of service of legal process refer to: ((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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2.0.4 Employee Actions

Background

The Statement of Collection Principles states that collection staff have guidelines to minimize financial liability.

Additional and specific protection is available for public employees involved in tax administration.

Purpose

The purpose of Employee Actions in regard to civil actions against employees is to ensure that collection staff adhere to the Statement of Collection Principles in order to minimize the possibility of incurring personal financial liability when performing assigned duties.

Responsibility

It is the responsibility of the collection staff to adhere to the Statement of Collection Principles and Policies to minimize the possibility of incurring personal financial liability.

Reference

For more specific information regarding:

- Additional and specific protection for public employees involved in tax administration,
- Identifying a public employee paying any claim or judgment that a public entity is required to pay, or
- Disputed indemnification,

Refer to [Government Code Sections 825.2, 825.4, 825.6](#) and [860.2](#).

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